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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/366,064	08/02/1999	JASON ROBERT MALAURE	GIL4-BH60	2626

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PRICE GESS AND UBELL
2100 S E MAIN STREET SUITE 250
IRVINE, CA 92614

EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/366,064

Applicant(s)

MALAURE ET AL.

Examiner

Son P Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 3, 5-7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Travaille et al. (US 6,067,107).

Regarding claim 1, Travaille et al. discloses a method of delivery an interactive application to a plurality of "target platforms" (network and receivers), the method comprising: providing a set of application components (interactive application 115) based on the programs to be broadcasted in play list 113 provided by broadcaster 114;

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converting the set of application components into a plurality of streams of broadcast data by Data Insertion Unit 116 (DIU), each stream of broadcast data conforming with a respective target receiver; and
delivering each stream of broadcast data to its respective receiver by transmitter 118 (see figure 1 and col. 5, line 1-col. 6, line 41).

Regarding claim 3, Travaille et al. discloses storing the application components in a data store 112; and retrieving the application components from the data store before converting it into a stream of broadcast data (see figure 1).

Regarding claim 5, Travaille et al. discloses receiving and processing user responses from receiver 120 by local data center 122 and master data center 128 (see figure 1 and col. 8, line 15+).

Regarding claim 6, Travaille et al. discloses the application comprises a game and the return data comprises response to the questions (see col. 10, lines 19-34).

Regarding claim 7, Travaille et al. discloses the "target platform" comprises a broadcast network and an application processor (receiver 120), and wherein the delivering step comprises broadcasting the stream of broadcast data to the application processor via the broadcast network (see figures 1 and 2).

Regarding claim 9, Travaille et al. discloses an apparatus for delivering an interactive application to a plurality of "target platforms, the apparatus comprising:
broadcast server 110 for providing a set of application component (interactive application 115);
a plurality of broadcast system interfaces (DIU 116) each converting the set of application components into a respective stream of broadcast data, conforming with a respective target platform; and
transmitter 118 for delivering each stream of broadcast data to its respective target platform (see figure 1).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Travaille et al. (US 6,067,107) as applied to claim 1 above, and in view of Lappington et al. (US 5,734,413).

Regarding claim 2, Travaille et al. discloses a method as discussed in the rejection of claim 1. However, Travaille et al. fails to disclose manually inputting real-time application

data; converting the real-time application data into a plurality of stream of real-time broadcast data, each stream of real-time broadcast data conforming with a respective target platform; and delivering each stream of real-time broadcasting data to its respective target platform.

Lappington et al. discloses manually inputting real-time application data by script writer; converting the real-time application data into a plurality of stream of real-time broadcast data, each stream of real-time broadcast data conforming with a respective "target platform"; and delivering each stream of real-time broadcasting data to its respective "target platform" (see figure 1 and col. 8, lines 1-61). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Travaille et al. by manually inputting real-time application data; converting it and delivering it to "target platform" as taught by Lappington et al. in order to deliver real-time application data to receiver via broadcast network.

Regarding claim 4, Lappington et al. discloses a wide variety of transport mechanisms are available, including those that broadcast the interactive application 115, embedded in broadcast program, separately from the broadcast program. Such transport mechanisms include out of band transmitters, radio transmitters. In another embodiment, the broadcast medium is a standard MPEG2 digital video multiplex. In another embodiment, the DIU use conventional method to insert data into an elementary stream within a MPEG multiplex. Error checking or error correcting code such as Hamming codes are inserted with the broadcast data 117 or the DIU 116 translates the data into a Hamming code... (see figures 1-2 and col.

5, line 50-col. 6, line 41). Inherently, the step of converting comprises adapting for different data transmission mechanisms.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Travaille et al. (US 6,067,107) as applied to claim 1 above, and in view of Crutcher et al. (US 6,310,941).

Regarding claim 8, Travaille et al. discloses downloading data from the stream of broadcast data (see col. 7, lines 1-30). However, Travaille et al. fails to disclose interrogating the application processor to determine the data capability of the application processor. Official Notice is taken that interrogating the application to determine the data capability is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Travaille et al. with a well-known technique of interrogating the application processor before downloading the data to the application processor in order to increase efficiency of the system.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Metz et al. (US 5,768,539) discloses downloading applications software through a broadcast channel.

Crutcher et al. (US 6,310,941) discloses downloading an launching an agent which interrogates the input/output ports and bus interfaces of client computer to determine certain attributes of client computer (see col. 10, lines 14-27).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-306-0377.

Son P. Huynh
July 25, 2002


CHRIS GRANT
PRIMARY EXAMINER